

REMARKS

By this amendment, the drawings, the specification and claims 1-3, 8-12 and 14-15 have been amended. Claims 5-7 have been cancelled. No new matter has been added.

Claims 1-4 and 8-15 are currently pending in the application. Reconsideration and allowance of all of the claims is respectfully requested in view of the foregoing amendments and the following remarks.

In regard to Objections to the Drawings

The Examiner has objected to the drawings because annotations contained in Figure 1 were redundant, unnecessary, and detracted from the clarity of said figure.

In response to the Examiner's objection, the Applicants have amended Figure 1 to remove the unnecessary annotations. No new matter has been added by way of this amendment, as it consists merely of removing elements that were present in the drawings as originally filed.

As a result of this amendment, it is believed that the Examiner's objection has been overcome and should be withdrawn.

The Examiner has also objected to the drawings under 37 C.F.R. 1.84(p)(4) because the reference character "10" has been used to designate both the ATV and the rear wheels, and reference character "118" has been used to designate both the motorcycle and the front wheels.

In response to the Examiner's objections, the Applicants have amended Figures 1 and 7. The reference character "10" now designates only the ATV in Figure 1, and the reference character "118" now designates only the motorcycle in Figure 7. No new matter has been added by way of these amendments, as they consist merely of renumbering elements that were present in both the description and the drawings as originally filed.

In view of the above remarks, Figures 1 and 7 are now believed to be in full compliance with the Rules, and therefore the Examiner's objections have been overcome and should be withdrawn.

The Examiner has also objected to the drawings under 37 C.F.R. 1.84(p)(5) because they do not include the following reference signs mentioned in the description:

- reference number 14, the rear wheels; and
- reference number 122, a single rear wheel.

In response to the Examiner's objection, the Applicants have amended paragraph [0061] of the specification to be consistent with the drawings as amended. No new matter has been added by way of these amendments, as they consist merely of renumbering elements that were present in both the description and the drawings as originally filed.

As a result of this amendment to the specification, in combination with the amendments to Figures 1 and 7 described above, the drawings are believed to no longer contain any reference numerals not mentioned in the description.

Therefore, the Examiner's objection is believed to be overcome and should be withdrawn.

In regard to Objections to the Specification

The Examiner has objected to the specification because priority was claimed to Provisional Application 60/431,244 while the filing date of the instant application exceeds the 12 month filing deadline for claiming priority thereto.

At the time of filing of the present application, the Applicants expected to receive a filing date within the 12 month deadline for claiming priority to Provisional Application 60/431,244, and for this reason a claim of priority was recited in paragraph [0001] of the specification. Due to events beyond the Applicants' control, they were unable to obtain a filing date earlier than December 11, 2003, which was outside this 12 month deadline.

As a result, the Applicants have amended paragraph [0001] of the specification to remove the claim of priority. The Examiner's objection is believed to be overcome and should be withdrawn.

The Examiner has also objected to the specification because the reference numbers and descriptions of the various wheel types in paragraph 61 were replete with errors when compared to the relevant figure.

In response to the Examiner's remarks, both paragraph [0061] and Figure 7 have been amended. As a result, the reference numbers and descriptions in paragraph [0061] as amended are believed to be consistent with the reference numbers in Figure 7 as amended.

No new matter has been added by way of these amendments, as they consist merely of renumbering elements that were present in both the description and the drawings as originally filed.

As such, the Applicants believe that the Examiner's objection has been overcome and should be withdrawn.

In regard to Rejection of Claims 1-15 Under 35 USC § 112, second paragraph

The Examiner has rejected claims 1-15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Referring to the rejection,

[c]laims 1 and 10 recite the limitation of "one of a family of vehicles", said family consisting of two vehicles chosen from a list of vehicle types. There is unnecessary obfuscation in the phrasing of this chain of choices. As best understood, said claims only require one vehicle from said lists and should be written to state such.

The Applicants respectfully submit that this rejection has been addressed and overcome by the present amendment.

In response to the Examiner's remarks, the Applicants have amended claims 1 and 10 to more clearly describe the claimed invention, and have amended claims 2-3, 8-9, 11-12 and 14-15 and cancelled claims 5-7 to be consistent with the amendments made to claims 1 and 10.

The rejection is therefore moot with respect to claims 5-7.

Claims 1 and 10 now recite a family of vehicles comprising two vehicles of different types from among the types recited respectively therein. What is claimed is a single vehicle selected from the family so defined. Claims 2-4, 8-9 and 11-15 now recite additional features of the vehicle selected from the family.

The Applicants believe that claims 1-4 and 8-15 are now definite and would be understood by a person skilled in the art. A person skilled in the art, when presented with a family of vehicles, would be able to determine whether the family of vehicles satisfies the conditions of the claims, based on the vehicle types and engine configurations. He would thereafter be able to determine whether a particular vehicle is a member of that family.

The Applicants do not consider the claims as presented to contain “unnecessary obfuscation in the phrasing of this chain of choices”. Due to the nature of the invention, one series of selections is necessary to define the family of vehicles, and a second selection is necessary to define the single vehicle that is claimed. The Applicants do not consider the claims as presented to be less definite than any other claim that recites a particular type of item selected from among a group of item types.

If the Examiner considers the claims as amended to still be indefinite in this respect, the Applicants request the Examiner’s assistance in formulating a satisfactory claim.

Therefore, the Examiner is requested to withdraw his rejection of claim 1 and claims 2-4 and 8-9 depending therefrom, as well as claim 10 and claims 11-15 depending therefrom.

The Examiner has additionally rejected claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Referring to the rejection,

[c]laim 1 recites a v-type engine being a component of a first vehicle and a component of a second vehicle. An engine cannot be a component in two vehicles simultaneously.

The Applicants respectfully submit that this rejection has been addressed and overcome by the present amendment to claim 1.

Claim 1 as amended recites “the first land vehicle having a first V-type engine ...” and “the second land vehicle having a second V-type engine ...”, and does not recite an engine that is a component in two vehicles simultaneously.

As such, the Applicants believe that the Examiner’s rejection has been overcome and should be withdrawn.

The Examiner has additionally rejected claims 2, 3 and 6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Referring to the rejection,

[c]laims 2, 3 and 6 recite the limitation “the first transmission”.
Should “a second vehicle” be chosen from claim 1, said vehicle
would not include “a first transmission”.

In view of the cancellation of claim 6, the Examiner’s rejection is moot with respect thereto.

As a result of the amendments to claims 2 and 3, these claims now recite features of the selected vehicle, and no longer contain any reference to features of the “first vehicle”.

Therefore, the Applicants believe that the Examiner’s rejection of claims 2 and 3 has been overcome and should be withdrawn.

The Examiner has additionally rejected claim 5 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Referring to the rejection,

[c]laim 5 recites the limitation “the second transmission”.
Should “a first vehicle” be chosen from claim 1, said vehicle
would not include “a second transmission”.

In view of the cancellation of claim 5, the Examiner’s rejection is moot.

The Examiner has additionally rejected claim 10 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Referring to the rejection,

[c]laim 10 recites the limitation “water vehicle comprising the engine”. There is insufficient antecedent basis for this limitation in the claim. Said claim recites a v-type engine, an inboard engine, and an outboard engine.

As a result of the present amendment, claim 10 now recites “the engine of the water vehicle”. The Applicants believe that this feature of claim 10 has sufficient antecedent basis, as claim 10 now recites a water vehicle selected from a group consisting of water vehicles respectively having engines.

Therefore, the Applicants believe that the Examiner's rejection of claim 10 has been overcome and should be withdrawn.

In regard to Rejection of Claims 1-7 and 10-13 Under 35 USC § 103(a)

The Examiner has rejected claims 1-7 and 10-13 under 35 U.S.C. § 103(a), as being unpatentable over Laimböck, U.S. Patent No. 6,467,562, in view of Pestotnik, U.S. Patent No. 6,182,784. The Applicants respectfully disagree.

In view of the cancellation of claims 5-7, the Examiner's rejection is moot with respect thereto.

The Examiner's attention is directed to the following feature of claim 1 as amended:

the second land vehicle having a second V-type engine of the same configuration as the first V-type engine

as well as the following feature of claim 10 as amended:

the water vehicle comprising a second V-type engine of the same configuration as the first V-type engine.

The Applicants submit that the above features of claims 1 and 10 as amended are not taught by Laimböck.

Referring to lines 5-8 of column 1 of Laimböck, Laimböck

relates to a drive unit for a motorcycle that includes an internal combustion engine having at least two cylinders arranged in a V-configuration, a clutch and a transmission, i.e. a gear box.

Laimböck makes no mention of any type of vehicle other than a motorcycle, and as such does not teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, nor a single vehicle selected from such a family.

This deficiency in Laimböck is not remedied by Pestotnik, without admitting that the two references can be combined, and reserving the right to argue thereagainst in the future.

Referring to lines 7-9 of column 1 of Pestotnik, Pestotnik

is in the field of all-terrain vehicles, and more particularly relates to a personal all-terrain vehicle (ATV).

Pestotnik makes no mention of any type of vehicle other than an ATV, and as such does not teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, nor a single vehicle selected from such a family.

In addition, Pestotnik does not teach an ATV having an engine with the same configuration as the engine in the motorcycle of Laimböck. Therefore, even if Laimböck and Pestotnik could be combined, which is not admitted, their combination would not teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, nor a single vehicle selected from such a family.

Therefore, at least one feature of claims 1 and 10 as amended is not taught by Laimböck or Pestotnik, alone or in combination, which combination is not admitted. As such, the Examiner is requested to withdraw his rejection of claim 1 and claims 2-4 depending therefrom, as well as claim 10 and claims 11-13 depending therefrom.

In regard to Rejection of Claims 8, 9, 14 and 15 Under 35 USC § 103(a)

The Examiner has rejected claims 8, 9, 14 and 15 under 35 U.S.C. § 103(a), as being unpatentable over Laimböck in view of Pestotnik and further in view of Ducati Museum web page. The Applicants respectfully disagree.

The Examiner's attention is directed to the following feature of claim 1 as amended:

the second land vehicle having a second V-type engine of the same configuration as the first V-type engine

as well as the following feature of claim 10 as amended:

the water vehicle comprising a second V-type engine of the same configuration as the first V-type engine.

As discussed above with respect to claims 1-7 and 10-13, the above features of claims 1 and 10 as amended are not taught by the combination of Laimböck and Pestotnik, which combination is not admitted.

This deficiency in Laimböck and Pestotnik is not remedied by the Ducati Museum web page, without admitting that the Ducati Museum web page can be combined with either or both of Laimböck and Pestotnik, and reserving the right to argue thereagainst in the future.

The Ducati Museum web page relates to motorcycles, and makes no mention of any type of vehicle other than a motorcycle. As such, the Ducati Museum web page does not teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, nor a single vehicle selected from such a family.

Even if the Ducati Museum web page could be combined with Laimböck and Pestotnik, which is not admitted, the combination would still fail to teach each and every element of claims 8, 9, 14 and 15.

The Examiner relies on the Ducati Museum web page to teach particular aspects of engine configurations that he recognizes are not taught in either Laimböck or Pestotnik, namely a 750 cc, 90-degree V-type engine. As such, it is apparent that neither Laimböck nor Pestotnik teach a vehicle having an engine with the same configuration as the engine described on the Ducati Museum web page. Therefore, the combination of Laimböck, Pestotnik and the Ducati Museum web page, which combination is not admitted, would fail to teach a family of vehicles comprising first and second vehicles of different types having engines with the same configuration, nor a single vehicle selected from such a family.

Therefore, at least one feature of claims 1 and 10 as amended is not taught by Laimböck, Pestotnik or the Ducati Museum web page, alone or in combination, which combination is not admitted. As such, the Examiner is requested to withdraw his rejection of claims 8 and 9 depending from claim 1, as well as claims 14 and 15 depending from claim 10.

In view of the above remarks, the Applicants respectfully submit that all of the currently pending claims are allowable and that the entire application is in condition for allowance.

Should the Examiner believe that anything further is desirable to place the application in a better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

At the time of filing of the present response, the Office was authorized to charge the fees believed to be necessary to a credit card. In case of any under- or over-payment or should any additional fee be otherwise necessary, the Office is hereby authorized to credit or debit (as the case may be) Deposit Account number 502977.

Respectfully submitted,

/Jonathan David Cutler/

Jonathan D. Cutler, Reg. No. 40,576
OSLER, HOSKIN & HARCOURT LLP
Attorneys for the Applicant

OSLER, HOSKIN & HARCOURT LLP
1000 de la Gauchetière St. West
Suite 2100
Montréal, Québec H3B 4W5
Canada

Tel. (514) 904-5624
Fax. (514) 904-8101